

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

GFR, LTD.,

Plaintiff,

Case No. 1:18-cv-00238 (jlg)

v.

Hon. Gordon J. Quist

MARK FARNER,

Defendant.

Douglas S. Bishop (P27616)
David A. Cvengros (P48504)
Bishop & Heintz, P.C.
Attorneys for Plaintiff
440 W. Front at Oak Street, P.O. Box 707
Traverse City, MI 49685-0707
(231) 946-4100

Janet Ramsey (P63285)
Warner, Norcross & Judd, LLP
Attorneys for Defendant
111 Lyon, NW, Suite 900
Grand Rapids, MI 49503
(616) 752-2736

A. Eric Bjorgum (admission pending)
Karish & Bjorgum, P.C.
Attorneys for Defendant
119 E. Union Street, Suite B
Pasadena, CA 91103
(213) 785-8072

**AFFIDAVIT OF STANLEY PACE IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION**

I, Stanley Pace, after being duly sworn, do depose and voluntarily state:

1. That I am a resident of Hampton, Virginia.
2. That, since 2000, I have independently contracted with GFR, Ltd. to assist the company with its website and merchandising.
3. That, in 2004, I was a witness in the United States District Court for the Western District of Michigan Case No. 1:03-cv-0432, entitled GFR, Ltd. v. Mark Farner and Paradise Artists, Ltd. and Paradise Artists, Inc.
4. That the background of my testimony involved Defendant's Farner's improper use of GFR, Ltd.'s trademark.
5. That, since that time, in addition to my other work for GFR, Ltd. with its merchandise and website, I have continued to monitor the scheduling of concerts for Defendant Mark Farner as they appear on the internet.



6. That I generally monitor Defendant's Farner's scheduled concert dates on a bi-weekly basis.

7. That my testimony in the predecessor case included testimony documenting the improper use of GFR, Ltd's trademarks and, since the entry of the Permanent Injunction, I've continued to monitor Defendant Farner's improper use of GFR, Ltd's trademarks in violation of the Permanent Injunction.

8. That as of July 1, 2017, I have documented the following violations of the Permanent Injunction:

A. **NO CHANGES** 07/11/18 Hilton, NY Billed as "Mark Farner's "American Band". Improper description and use of capitalization.

<<http://hiltonfd.org/>>

Also, the following page reads "Mark Farner's American Band, former lead singer of Grand Funk Railroad". Improper description, use of capitalization and no font reduction.

<<http://hiltonfd.org/custom.html?id=22115>>

The following page reads "Today's Deal: Mark Farner's American Band at Hilton Fireman's Carnival on Wednesday July 11th!". Improper description and use of capitalization.

<<https://www.getmyperks.com/deal/rochester/hilton-firemans-carnival-mark-farner-2018>>

≥

B. **NEW VIOLATION** 07/28/18 Rothbury, MI This page has been updated for the first time, and it is in violation. It reads "MARK FARNER'S AMERICAN BAND". Improper description and use of capitalization.

<<http://www.sandycorley.com/bands.html>>

C. **NO CHANGE** 08/11/18 Loveland, CO Billed as "Mark Farner's "American Band". Improper description and use of capitalization.

<<https://tmaconcerts.com/>>

D. **NO CHANGE** 08/18/18 Montgomery, AL Billed as "Mark Farner's "American Band". Improper description and use of capitalization.

<<http://www.mpaonline.org/>>

E. **NO CHANGE** 08/25/18 London, ON Billed as "Mark Farner's American Band". Improper description and use of capitalization.

<<https://www.londonbluesfest.com/2018-schedule>>

F. **NEW VIOLATION** 09/21/18 Tiffin, OH Billed as "Mark Farner (from Grand Funk Railroad)". Improper description, use of capitalization, and no font reduction.

<<http://www.ritztheatre.org/calendar.html>>

G. **NO CHANGE** 10/30/18 New York, NY Billed as "Mark Farner's "American Band Unplugged" on these two pages. Improper description and use of capitalization.

<<http://thecuttingroomnyc.com/>>

<<https://tickets.thecuttingroomnyc.com/event/1695447-mark-farners-american-band-new-york/>>

H. **NO CHANGE** 11/1/18 Fall River, MA Billed as "Mark Farner's "American Band". Improper description and use of capitalization.

<<https://www.showclix.com/events/26362>>

<<https://www.showclix.com/event/mark-farners-american-band>>

I. **NO CHANGE** 11/2/18 Natick, MA Billed as "Mark Farner's "American Band" Acoustic". Improper description and use of capitalization.

<http://www.natickarts.org/performances?field_perf_venue_tid=1&qt-events_listing_tabs=0>

<<http://www.natickarts.org/performance/mark-farner%E2%80%99s-american-band-acoustic-2018-11-02>>

9. That it is my understanding that, after reporting these violations and/or potential violations to counsel for GFR, Ltd., they have resulted in cease and desist letters.

10. That, despite the cease and desist letters, Defendant Farner continues to improperly advertise himself in violation of the Permanent Injunction.

11. That, in addition to the potential violations of the Permanent Injunction, Defendant Farner has been billing himself as “Mark Farner’s American Band” and using a logo attached as Exhibit A.

12. That, to my knowledge, GFR, Ltd. has previously trademarked the term “THE AMERICAN BAND,” as well as a logo that is similar to and confusing with the trademark logo of GFR, Ltd.

13. That it is my belief that the logos and use of the term “American Band” is causing confusion among fans to the extent that they believe that Defendant Farner is, in fact, the band Grand Funk Railroad.

Further, Affiant sayeth not.

Stanley Pace
Stanley Pace
DATED: July 5, 2018

STATE OF VIRGINIA)
COUNTY OF Hampton) ss

On this 5 day of July, 2018, before me, a Notary Public in and for said county and state, personally appeared Stanley Pace, to me known to be the same person described in and who executed the within instrument, and who acknowledged the same to be his free act and deed.

Commonwealth of Virginia
Shannon L. Nolan - Notary Public
Commission No: 7100216
My Commission Expires 05/31/2020

Shannon L. Nolan
5/31/20 Notary Public
County, Virginia
My commission expires:
Acting in Hampton County, Virginia